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Chairman:

Mr. ENGO

United Republic of Cameroon

Rapporteur:

Mr. MOTT

Australia

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STATEMENTS ON THE INTERNATIONAL REGIME AND MACHINERY (continued)

Mr. HAFNER (Austria) observed that the matters the Committee was dealing with constituted the very basis of the principle of the common heritage of mankind, a principle to which the Committee should be faithful.

It followed from that principle that all States should receive their share of the benefits derived from the exploration and exploitation of the resources of the international area. Those States which did not have direct access to the international area, including the geographically disadvantaged States and land-locked States such as Austria, should be given access to the area. Once they had that right, that group of States would be on an equal footing with the coastal States. In establishing the international régime, due account should also be taken of the different stages of development of the States concerned.

The concept of the common heritage implied not only the sharing of the benefits derived from the area but also the establishment of universal co-operation in the rational exploration and exploitation of the resources: land-locked States should therefore be able to co-operate with other States in those activities and participate in the development of marine technology.

The international authority should be endowed with the powers necessary to ensure implementation of the régime. Moreover, the principle of the common heritage implied that the authority should have a structure such as was still unusual among existing international organizations. Most delegations felt that the machinery should consist of four principal organs (an assembly, a council, an operative arm and a secretariat) linked with a very important instrument for the pacific settlement of disputes. The composition of the organs should be based on the criteria which he had already mentioned, but should also provide for adequate representation of the land-locked and geographically disadvantaged States.

With regard to the legal system of exploration and exploitation of the area, his delegation proposed that the international authority should be given the opportunity to choose between the enterprise system and the licensing system, so that it could use the most efficient system depending on the needs of the time and the development of deep-sea mining technology.

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Mr. GORALCZYK (Poland) said that the régime of the international area should be based as far as possible on the Declaration of Principles in General Assembly resolution 2749 (XXV). The task of the Committee was to translate the basic concept of the Declaration, that of the common heritage of mankind, into the language of legal rules. During the debates in the Working Group of Sub-Committee I of the Sea-Bed Committee, his delegation had given its support to the texts that followed most closely the principles adopted by the General Assembly; its position remained unchanged.

It was generally accepted that the concept of the common heritage implied the establishment of an international organization which would guarantee the implementation of the basic principle of the international régime. His delegation had submitted a working paper (A/AC.138/44) on the proposed organization, but it was open to suggestions and was prepared to seek acceptable solutions.

Turning to the question of the functions and powers of the organization, he said that it should have powers broad enough for it to regulate and control the exploration and exploitation of the resources of the area, secure for all States equal access to the area and its resources, and ensure an equitable sharing among all States of the benefits derived from the exploitation of the resources, with particular consideration for the interests and needs of the developing countries. The organization should have the right to impose and collect various fees, royalties and taxes on exploitation in the area. It would have to deal not only with the exploration and exploitation of the resources but also with the economic implications of the production of minerals, the promotion of co-operation in scientific research to strengthen the research capacity of the developing countries, the transfer of marine technology and the prevention of pollution of the marine environment.

On the question of who should exploit the area, his delegation felt the area should be open for activities by all States and other entities acting under their authority. Some delegations had suggested that the organization should have the exclusive right to explore and exploit the area and its resources, but that approach was not consistent with the Declaration of Principles, which provided that States should have direct access to the area and directly exploit its resources. Moreover, if the organization alone was entitled to exploit the area, that might delay the development of its activities. Big international monopolies which would prove the most powerful might also misuse that system and dictate their own terms to the organization. His

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(Mr. Goralczyk, Poland)

delegation was ready to discuss the problem openly, and considered that the representative of Nigeria had made a constructive suggestion in proposing that the organization could begin by issuing licences and then, after accumulating sufficient funds, go into direct operational activities.

The organization should also have powers broad enough for it to ensure the equitable distribution among all States of the benefits derived from the proposed activities. Whatever system of exploitation was adopted, only a few highly developed countries at present had the necessary means to engage in that type of activity and would therefore draw direct revenues because they would be called on to provide technology and services. In the initial stage, the organization should therefore help to develop the capacity of all States to participate actively in the exploration and exploitation of the area. A substantial part of the revenue of the organization would therefore be allocated to financing various technical assistance training programmes for nationals of developing countries. At the same time, the organization should encourage the transfer of scientific knowledge and technological know-how to the developing countries, thus helping to translate into action the concept of the common heritage.

In conclusion, he expressed his delegation's support for a democratic decision-making process, which would take account of and adequately guarantee the legitimate interests of all States. Only if decisions were taken democratically would the exploration of the area and the exploitation of its resources be carried out for the benefit of mankind as a whole.

Mr. CEAUSU (Romania) said that the issues being considered by the Third United Nations Conference on the Law of the Sea were of vital importance for the peoples of the world because they were closely related to the sovereign rights of States over their natural resources and to the need to ensure the participation of all States in the exploration and exploitation of the sea-bed. The developing countries, for their part, had decided to contribute to the building of a new legal order so that the sea could be used to promote their own economic and social development.

The Committee's work on the régime for the international area, the common heritage of mankind, was made easier by the fact that several matters could be tackled on the

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(Mr. Ceausu, Romania)

basis of the Declaration of Principles. For example, there could be no question of an armaments race in an international area which was to be used exclusively for peaceful purposes, a principle which should be developed in the future convention. The régime should also reflect the principle of the equality of States. The idea that the resources of the international area could be exploited by States or by private enterprises was not consistent with that principle and could neither guarantee the equitable distribution of the benefits derived nor safeguard the interests of the developing countries. The best solution would be to establish an international authority with the necessary powers to manage and exploit the natural resources of the area and with its membership open to all States.

The statute of such a body should, in all respects, reflect the principle of the equality of States. The assembly, in which all States would be represented, should have wide powers, but the council and other executive organs should have only limited powers which they would exercise under the control of the plenary organ. The composition of the executive organs should be periodically renewed and the executive posts should change hands from time to time so that all States would be represented equitably.

The modalities for exploiting the area should be based on the principles in the 1970 Declaration of Principles: the objectives set forth in that Declaration would be attained only if the international authority was entitled to engage, directly or indirectly, in exploration and exploitation of the resources of the area. At the present time only a few States were engaged in scientific research and exploration of the sea-bed and they had the necessary technology for the industrial exploitation of the resources. If all States were to be involved in such activities, agreement should be reached on provisions for organizing co-operation in that field. States parties to the future convention should undertake to promote the transfer of technology and exchange of scientific knowledge on the exploration of the area and the exploitation of its resources, perhaps under programmes for the benefit of developing countries. The international organization, for its part, could establish permanent machinery for the acquisition, dissemination and transfer of scientific and technological know-how, and for training nationals of developing countries so as to ensure that such countries

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participated fully in the activities carried on in the area. That was the only way to bridge the gap between the developed and developing countries in the field of science and technology and to ensure exploitation of the resources of the area for the benefit of mankind.

Mr. URIBE VARGAS (Colombia) stated that the process of decolonization should be extended to the oceans so as to ensure that their resources contributed to the establishment of international economic justice and that nations developed in an egalitarian society. General Assembly resolution 2749 (XXV) and the preparatory work of the Sea-Bed Committee were very important in the formulation of an international law based on principles other than those of the hegemony of the great Powers.

The initiative taken by the Latin American countries in extending their exclusive sovereignty over the resources situated in a zone of 200 nautical miles derived from the recognition by the coastal States of their legitimate rights and could certainly not be interpreted as an abuse of jurisdiction. For its part, the Committee should seek primarily to establish the machinery best designed to ensure that the international community benefited from the uses of the sea's resources.

The greatest threat to the success of the Conference could be the dilatory tactics of some States which could be an obstacle to achieving positive results of immediate application.

He suggested that the Committee should take note of the document submitted by certain Latin American countries concerning the sea-bed régime (A/AC.138/49), because it showed their desire to contribute to the development of a new law of the sea. The Committee should also bear in mind that regulatory treaties belonged to a bygone era; it would be better to think in terms of "framework-conventions" and allocate competence to international organizations whose structure could be modified, in order to tackle problems with the flexibility and pragmatism required in changing circumstances. In a "framework-treaty" it would therefore be necessary to demarcate the area, enumerate the basic principles of the régime, define the democratic structure of the organization and the organs to which the international community would delegate powers. The international authority should be a democratic body responsible for bridging the gap between the rich countries and the poor countries and establishing a fairer and more just system of international relations. No greater risk could be incurred than to allow

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certain Powers to accumulate further privileges to the detriment of the developing countries and that could only be avoided by basing the structure of the international authority on the principle of the equality of States and by rejecting any machinery which would jeopardize the principle of the simple majority in the decision-making process. All States must participate in defining the political and economic roles of the organs which constituted the authority which should ensure that decisions were implemented and penalties imposed on those who did not abide by them.

The Convention should provide for the establishment of an assembly with legislative powers, in which no State would have a casting vote, an executive council consisting of groups of technical advisers responsible for carrying out the decisions of the assembly, the members of which would be elected for a term of two years, a tribunal with the power to settle disputes which might arise in administering the exploitation of the area, an enterprise which would directly exploit the resources under the supervision of the assembly and ensure the transfer of technology, and finally an administrative secretariat. Thus constituted, the international machinery would embody two basic principles: the assembly would have the power to draw up mandatory regulations and the tribunal would settle disputes arising out of decisions taken by the executive council or other organs. Without international democracy within the authority, the privileges of States possessing technology and financial resources would be enhanced. Without a tribunal, the authority would not have sufficient power to ensure that States complied with their obligations.

Because they were in the majority, the present Conference gave the third-world countries the opportunity of imposing bold solutions in order to create a new law of the sea. The international structures would reveal all their weakness if attempts were made to regulate in great detail matters as susceptible to change as the resources and potential of the oceans. For that reason, his delegation emphasized the need to tackle without delay the question of establishing a democratic international sea-bed authority, so as to provide the political and juridical controls necessary for ensuring that all States exercised their rights and for removing any justification for reservations concerning the composition of the organs and the mandatory nature of the decisions which would be taken.

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He stressed the need, when defining the international area, to take account of the fact that it comprised not only the sea-bed and ocean floor and the subsoil thereof but also the resources situated in the corresponding water column. Indeed, to exclude minerals in suspension and other resources independent of the sea-bed from the jurisdiction of the régime would deprive the Declaration of Principles of all relevance.

Finally, the land-locked countries should be properly represented in the proposed authority in the interests of international justice and the equality of States.

Mr. ADEDE (Kenya) said that his delegation was prepared to enter into serious negotiations in the Committee with a view to ensuring that the aims of the Declaration of Principles were embodied in a convention. Such a convention should provide a sound, realistic basis for the exploitation of the resources in the area declared to be the common heritage of mankind.

The concept of the common heritage of mankind was derived from three basic ideas. Firstly, the international community should take the necessary steps to ensure an equitable sharing of the resources of the area, taking into account in particular the interests of those who, in the past, had not had a chance to participate effectively in the exploitation of those resources and the advantages derived from them. In that connexion, the international community should remove the dangerous temptation for the powerful States to impose their will on other countries. Secondly, the area should not be subject to appropriation by any State, or juridical or other person. Finally, the area should be used for peaceful purposes only.

From those three basic ideas there emerged two important issues which the Committee should tackle in order to give full meaning in a convention to the concept of the common heritage of mankind. The first issue was the formulation of the fundamental principles of the sea-bed régime dealing with the limits of the area and the question of who could exploit the area. The second dealt with the structure and functions of the international machinery to be established.

In view of the limited time available to it, his delegation would confine its remarks to the second issue. He felt it necessary to restate that, as the chairman

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of his delegation had stated in the plenary Conference, Kenya felt that the international machinery should have the power to undertake all exploration activities in the area, the exploitation of its resources and all other related activities, either directly or in such ways as it deemed appropriate, while retaining direct and effective control at all times over such activities. Accordingly, in the view of his delegation, the following five organs should be established to constitute a strong authority: an assembly - the plenary organ; a council - the executive organ; an enterprise - the operational organ; a secretariat, to service all the organs of the authority; and finally a tribunal, for the settlement of disputes relating to the Convention.

The assembly which would be responsible for policy-making, would be composed of all States parties to the Convention, each having one vote. Its powers should include, inter alia (a) the election of members to the other organs of the authority; (b) the establishment of appropriate subsidiary organs to deal, among other things, with preservation and enhancement of the marine environment, to regulate and control the conduct of scientific research, to guarantee safety at sea, to ensure an equitable sharing of the benefits and to minimize the adverse economic effects of the fluctuation in the prices of raw materials that might result from exploitation of the sea-bed resources; (c) the appointment or election of officers to all the organs of the authority on the recommendation of the council; and (d) decisions on financial and budgetary matters. His delegation emphasized the need to ensure that the assembly would not become an organ which merely ratified the recommendations of the council.

The council, the executive organ, should inter alia ensure implementation of the policies formulated by the assembly with regard to exploration and exploitation activities in the area. It should also recommend to the assembly the establishment of appropriate subsidiary organs or any organ relating to the functions assigned to the assembly under the Convention.

In the view of his delegation, the question of the size of the council's membership was closely linked with that of the voting formula for decision-making in that organ. Those two issues could be the subject of a workable compromise and he was willing to combine the principle of equitable geographic distribution with the principle of the permanent representation of certain interests in the council. He

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(Mr. Adede, Kenya)

therefore suggested, tentatively and subject to possible negotiations, that the council should consist of 48 members divided into the following four categories: six members appointed by the assembly from among those with the most advanced marine technology, 15 members appointed by the assembly to represent various geographical regions, three members elected by the assembly from among the land-locked and geographically disadvantaged countries; and 24 other members elected by the assembly in order to ensure equitable representation of all other interests. The council would take decisions by a two-thirds majority of its members present and voting. His delegation was opposed to any attempt to introduce in the council particular voting devices such as preferential or weighted voting or the right of veto. The foregoing proposal was therefore a compromise designed to take into account all relevant interests while upholding the democratic system of adopting decisions by a two-thirds majority of those present and voting.

With respect to the Enterprise, his delegation believed that any apprehension about the setting up of that organ might be dispelled if the text of the Convention itself were to include the conditions under which it would operate. The Enterprise should be entrusted with the responsibility of arranging the appropriate modalities for the exploration and exploitation of the area so as to ensure optimum recovery and to guarantee participation by the authority at all levels of activities.

The main function of the tribunal should be to decide all questions relating to the interpretation and application of the Convention, essentially on the basis of the law of the Convention. The tribunal should also have jurisdiction over disputes between States parties to the Convention, between a State and the authority and between the authority and any person with whom the authority had a business association. On the other hand, only the tribunal, whose composition should ensure the existence of the necessary expertise, should be competent to determine whether any international rules announced by the authority for the protection of the marine environment and the regulation of scientific research were "reasonable".

The secretariat should have at its head the chief administrative officer of the authority and should provide meetings services for the authority and occasionally give support to the work of the authority by calling its attention to matters for consideration by the appropriate organ.

(Mr. Adede, Kenya)

Besides the questions falling directly under the mandate of the Committee there were others that could not be ignored, such as the question of fisheries resources of the area or that of conflicts which might arise between non-resource uses of the area and the activities connected with the exploration and exploitation under the Convention; nor could the Committee ignore the question of the prevention and control of marine pollution from all sources within the area. All issues of the law of the sea were therefore interrelated and his delegation felt that the appropriate committees might begin consideration of the question of regulation and rational management of the living resources of the open sea and the preservation and enhancement of the marine environment in that same area. At a suitable time, and in the appropriate Committee, his delegation would make concrete proposals on those issues.

With respect to the question of the location of the seat of the International Authority, his delegation recalled that the capital of Kenya, which was a developing country, had recently been chosen as the headquarters of the United Nations Environment Programme and it believed that that trend of locating the headquarters of international organizations in developing countries should be encouraged. For that reason, it was happy to support Jamaica's bid to host the headquarters of the future Sea-Bed Authority.

Mr. RAKOTOSIHANAKA (Madagascar) said that he would merely mention the basic points to which his delegation attached the greatest importance.

The concept of the common heritage of mankind was not really new, since even the previous law of the sea had recognized the principle of res communis. What was really new was the proposed application of that principle for the benefit of all mankind. The purpose of the Conference was to end the current disorder in the ocean space and to harmonize the interests of all States on the basis of the principles of equality and non-discrimination. It was on that basis that the nature and features of the international area and the machinery for administering it was to be defined. In that connexion, there were grounds for the full implementation of the Declaration of Principles whose golden rule was the equality of all States with respect to their common heritage which should not therefore be the object of appropriation, claims or monopoly on the part of some.

The concept of common heritage should not be in conflict with the interests of coastal States because the limits of the area where that concept applied should not encroach on the national jurisdiction of those States. With respect to the delimitation

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(Mr. Rakotosahanaka, Madagascar)

of the international area, his delegation believed that the bathymetric criterion should be abandoned, since it had now been bypassed by technological progress. The recognition of the interests of riparian States should take into consideration the geographical, physical and morphological conditions of those States. Furthermore, any activity in the areas straddling the limits of national States or areas adjacent to those limits would require the consent and participation of the State concerned.

With respect to the international régime and machinery to be set up, rules should be established to achieve the desired objectives. A weak machinery which would merely co-ordinate the activities of different States by issuing licences would merely perpetuate the status quo without meeting the need for an equitable sharing of the resources of the common heritage. Only an authority representative of the entire international community and having wide powers could safeguard the real freedom of the high seas and the rational exploitation of the sea-bed for the benefit of all peoples without distinction. His delegation would prefer a business type of machinery which could explore and exploit the international area directly. That universal and democratic authority must have real legislative and regulatory powers, and its structure and methods should not reflect artificial categories based on wealth and power.

The main body of the authority, the assembly, comprised of all States members of the authority, must have ultimate policy-making or decision-making powers. It was indispensable that each State participate in the formulation and adoption of all rules governing the heritage of mankind, and his delegation rejected the idea of certain States for a restricted body, the Council, as the core of the authority since that would result in a perpetuation of the great-Power veto system, the consequences of which were well known. Any restricted body which it was deemed necessary to establish for reasons of practical order, should be subordinate to the assembly.

With respect to the international régime, his delegation would not be satisfied with vague rules for administering the common heritage of mankind. In order to avoid the short-comings and injustices of the past and to protect the weak against the strong, a precise legal régime should be contemplated. In that connexion, it should be noted that if the third world must, according to the wishes of the United Nations, close the gap which separated it from the technologically advanced countries, it must be

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(Mr. Rakotosihanaka, Madagascar)

assisted from the exploitation of the sea-bed; in other words, if the proposed régime and machinery was to grant preferential rights, then those should be exclusively for the countries of the third world whose development had up to the present been unjustly impeded. The international régime must therefore promote the development of the developing countries and the technical training of their nationals. Moreover, scientific research and activities undertaken in the international area under conditions set by the authority must serve the interests of the international community, particularly the third world.

Finally, he wished to emphasize that the seas and oceans must be used exclusively for peaceful purposes, and he hoped that the legal régime for the area would enable the authority to take measures with a view to maintaining international peace and security and conserving the resources of the sea-bed for future generations.

Mr. MONNIER (Switzerland) said that his delegation recognized the need for determining the limits of the international area of the sea-bed and ocean. Those limits must be uniform and, in that connexion, the simplest and most satisfactory criterion appeared to be that of a certain distance from the coasts. Those limits must also be secure and not be open to challenge through unilateral claims.

On the other hand, all States, without distinction and regardless of their economic level and geographical location, must be ensured of access to and from the area.

With respect to the sharing of the benefits from the exploitation of the area, it should be noted that a strict application of the principle of equality might have inequitable results and that that sharing must take particular account of the needs of the most disadvantaged countries.

Turning to the proposed international machinery his delegation believed that it should be sufficiently strong to deal with the many problems which were still barely within the human grasp; at the same time it should be sufficiently flexible to adapt to circumstances and to the development of technology. His delegation did not believe that the machinery should necessarily follow the model of existing international organizations.

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(Mr. Monnier, Switzerland)

It seemed that an agreement on the structure of the machinery should be worked out so that it would include a Plenary Assembly and a restricted body called the Council. His delegation believed that the composition of the latter should reflect not only equitable geographical distribution but also equitable geographical location, and particularly enable the land-locked countries to be duly represented.

His delegation did not believe that the competence of the Authority should be limited nor did it wish that it should operate in an exclusive manner with respect to the exploration and exploitation of the area. The issuing of exploration and exploitation licences did not appear to be incompatible with the exercise by the Authority of similar activities or with the concept of the common heritage of mankind, inasmuch as those licences would be issued under precise conditions and the exploitation would be carried out within the framework of applicable principles.

Finally, his delegation was in favour of setting up an effective system for the settlement of disputes. Whatever might be the features of the system established, it should provide for a mandatory settling of disputes.

Mr. LARSSON (Sweden) said the fact that his statement would deal mainly with two of the problems before the Conference, namely the exploitation of the international area of the sea-bed, and scientific research in that area, in no way detracted from the importance his delegation attached to other problems, for instance the establishment of an international régime and machinery. He would revert later to those questions but at the present stage wished to define his basic attitude to the principles embodied in General Assembly resolution 2749 (XXV).

Previous speakers had expressed different views on the question of who should exploit the resources of that area. His delegation was in favour of an authority empowered to issue licences for the exploration and exploitation of the natural resources of the sea-bed and its subsoil, such licences being granted, in principle, directly to States, but possibly also to natural or juridical persons furnished with the necessary guarantees. The authority should also be empowered to carry out such exploration and exploitation activities themselves, either on its own or in joint ventures with States or public or private companies. The sooner the authority was able to engage successfully in such activities, the sooner there would be a real balance between the authority and the technologically most advanced States and companies.

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(Mr. Larsson, Sweden)

In the opinion of his delegation, that was the only solution which would accommodate the interests of different delegations, and at the same time secure the best economic results for the international community as a whole. The authority itself would certainly be in a better position than the Conference to make specific decisions as to how and by whom the various exploration and exploitation activities should be carried out. It would, at least after some time, possess the necessary knowledge, expertise and experience to be able to find the best solution. Giving the authority a wide choice in those respects would be the best means of launching all projects with the best technological and financial facilities.

As to scientific research in the area, his delegation thought that it should not be hampered by unnecessary administrative regulations, but considered it important that such research should be conducted openly so as to ensure that only projects for peaceful purposes were carried out. Accordingly, it would seem advisable that the authority be given advance notification of all research projects in the area, that it should have the right to be represented when the projects were carried out and to request dissemination of the results. That would provide an over-all picture of the activities and prevent overlapping and waste of resources. Moreover, in that way the authority would be able to decide whether a project should be regarded as scientific research within the meaning of the treaty, or as commercial exploration needing the authorization of the authority. That solution might perhaps form the basis for a compromise between those who advocated full freedom and those who wanted scientific research in the area to be under the control of the authority.

Lastly, as regards organs with limited membership, such as the Council, his delegation thought that the various interests of the contracting parties should be represented. Thus, the developed countries and the developing countries, coastal States and land-locked States should all be represented, with due regard to geographical distribution. His delegation felt also that it was important that developing countries and small developed countries should exercise a real influence in the Council.

Mr. BARNES (Liberia) thought that the draft articles adopted by the Committee for the establishment of the régime and an international machinery should be the starting point of its work. Several delegations had rightly pointed out that there existed substantial differences as to the interpretation of the common heritage

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(Mr. Barnes, Liberia)

principle, a fact which was a matter of concern to his delegation. It would nevertheless suggest that they should proceed to consolidate those areas on which there was a common approach and then negotiate the questions where divergent views existed.

In establishing the authority, attention should be paid not only to the rights and imperatives of the authority, but also to the corresponding duties of developed or developing States. The problem should be approached with the respect due to the principles of international law and democracy.

The Committee should begin forthwith to incorporate into a single draft the proposals before it for the establishment of the international machinery, bearing in mind that the use of the sea-bed and ocean floor should be for peaceful purposes and for the benefit of all mankind. The Committee could negotiate from that point, basing itself on the principle of equality of all States. Once common agreement on the proposals had been reached, the Committee could proceed to consider other crucial and important aspects, such as the status of the authority and its subsidiary organs. In view of the time element involved, if the Committee continued with an academic exercise, instead of getting down to actual work, the Conference would pass into history as having made a fruitless attempt to establish international rules whereby mankind would benefit from the resources of the oceans under conditions of peace and international understanding. The Conference could not afford to fail; if it did, the consequences would be serious for the future of mankind as a whole.

Mr. KASEMSRI (Thailand) said that, like the Chairman, he thought that the work of the First Committee should be speeded up; firstly, so that it should not be taken by surprise by political decisions in the other Committees; secondly, to avoid the possibility of certain trends developing and exerting themselves in the other Committees which could radically affect the course of the First Committee's deliberations.

His delegation supported the legitimate rights and aspirations of land-locked States and geographically disadvantaged countries, the more so as Thailand itself could be considered to be seriously disadvantaged on account of its geographical situation on a semi-enclosed sea, especially if existing international law and the rights recognized thereunder, were to become modified by the new international law of the sea.

His delegation had from the outset supported the principle of the common heritage of mankind. Nevertheless, at the present stage of the Committee's work, a reasonable

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(Mr. Kasemsri, Thailand)

period of time should be allowed to give effect to that principle. There was no question that the principle which was a fundamental one, was now universally accepted; the need at the present stage was to provide a working structure and put it for the exploration and exploitation of resources of the sea beyond national jurisdiction, for the common good and in good time.

His delegation would like to consider in more detail certain characteristics of the proposed international machinery. It had already announced that it favoured the establishment of an effective international machinery with broad authority regarding management and exploitation of resources of the sea and ocean. It was essential that the authority should be a really competent one. It must therefore have the necessary capacity to operate effectively, for the real benefit of the international community, while having regard to the special needs and interests of the developing countries. He appreciated the generous offer made by Jamaica to be the seat of the new authority.

The time had come to study the structure of the international machinery and in that connexion the Committee would have to take into account the following three points: firstly, the international body could not be expected, in the early phase of exploitation, to provide sufficient benefits for general distribution; consequently that early phase might last several years; secondly, the longer it took for the authority to secure permission to start operations, the longer it would take for any real benefits to be derived from such operations; thirdly, the present rate and trend of technological progress seemed to indicate that the technological gap was likely to increase rather than decrease. That in turn implied that, where such a gap existed, sea-bed resources would remain untapped for a long time to come. Unless the authority was provided with the means and facilities to narrow that gap, it would become a weak and ineffectual organization, no matter what legal powers were vested in it.

His delegation, like those of Nigeria, Peru and Sweden, was constrained to accept certain realities. It envisaged that the authority should begin to function as soon as possible, perhaps in three stages. The first stage would involve co-operation with the private sector, which was well advanced technologically, preferably in the form of joint ventures, with the authority holding a majority interest of not less than 51 per cent.

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(Mr. Kasemsri, Thailand)

The second stage would witness a gradual increase in the authority's participation in the activity of exploration, with a corresponding increase in its share of the benefits while the participation of the private sector would diminish, for when the latter was no longer making satisfactory profits, it would transfer its investments to the authority.

Finally, the authority would arrive at the third stage of functioning on its own without any further participation of the private sector.

The maximum duration of each of those stages and the respective shares in the profits would be stated in the convention or constitution of the authority, subject to review and possible modification by the assembly at the end of each stage. Provisions for a trial period might also be agreed upon.

It should also be agreed that the authority would be able at any moment to exercise control over the activities of exploitation. There would be no freedom of exploitation in the international area. It was necessary to lay down effective rules and a time-table for the transfer of technology to the authority with adequate participation of the developing countries.

Consequently, during the initial phase the international authority should be provided with the necessary funds, which would be distinct from its administrative budget, to allow it to acquire indispensable technology and equipment. A portion of those funds could be made up of voluntary contributions, but the bulk should come from the exploitation of the resources of the sea-bed with or without the participation of the private sector. The major part of revenues, therefore, should go to the authority so that it could become self-sufficient as early as possible and be capable of the effective operational role which it should play.

It would be necessary to allocate, as a matter of priority, an important part of the profits to the developing countries which were land-locked, shelf-locked, or geographically disadvantaged, or again to those States for whom the exploitation of the resources of the sea would have adverse effects. It might even be necessary in that connexion to provide for preventive measures to avert any economic dislocations to which the exploitation of those resources might give rise.

With regard to the structure of the international authority, his delegation had no objections to its being made up of four or five principal organs, namely an assembly, a council, an operating arm, a secretariat, and a machinery for the settlement of

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disputes; the functions of those organs would have to be defined in the convention. Nevertheless, if a general agreement were not reached at the third Conference, his delegation saw no reason why the assembly could not be convened at an early date in order to resolve the question of the council's composition. It would obviously be preferable, however, for the Conference to reach a general agreement along the foregoing lines as soon as possible.

With regard to the powers of the assembly and its relationship with the council, the basic question, as had already been underlined, was where the executive power was to reside. His delegation hoped that the assembly would have the final say as to supervision and approval particularly of any matter concerning joint operations with the private sector in the early stage of activities. Any individual member of the council should also be able to appeal decisions taken by that body, particularly in regard to exploitation, before the assembly. That right of appeal could nevertheless be suspended in an emergency situation, provided that, in such cases, the decisions of the council were reviewed and endorsed by the assembly within a reasonable lapse of time.

His delegation was convinced that such an assembly would meet the basic need for a truly democratic international machinery which would ensure that the benefits of the common undertaking would, on an equitable basis, go to mankind as a whole.

Mr. CHOWDHURY (Bangladesh) said that the General Assembly had set forth the general lines which should govern the nature, scope and fundamental provisions of the international régime, as well as the noble concept that the sea was the common heritage of mankind. That concept had been reiterated in numerous international conferences, for example in Santo Domingo in 1973 and at the fourth Summit Meeting of non-aligned countries. Bangladesh supported that principle without reservation and would work unceasingly in co-operation with other nations for its effective implementation.

His delegation strongly hoped that the rules governing the international régime and machinery would be established without any further delay. Bangladesh had already declared its support for a territorial sea of 12 miles and an economic zone of 200 miles within which the coastal State would be free to develop the resources of the sea. Beyond the economic zone, no individual or group of individuals, or any State or group of States should be allowed to pursue their selfish ends. The sea had to become a source of wealth, peace, and tranquillity, not a source of conflicts. The rules, regulations

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and principles should reflect a concern for the well-being of mankind and not any imperialist or colonialist interests. The law which was to be established had to be adopted in an atmosphere of confidence and respect, so that all parties would co-operate spontaneously in economic development. That law had to be clearly laid down to avoid future disputes as far as possible.

With regard to the application of the concept of the common heritage of mankind, his delegation believed that not only the sea-bed, but all ocean space including the superjacent waters and their resources, and all activities which were carried on there, should fall within the exclusive competence of the international régime.

Opinions were divided concerning the authority's powers in the realm of management of resources. Bangladesh favoured an authority empowered to undertake all relevant activities in the zone, namely, exploration, exploitation, the protection of the marine environment, and scientific research, either on its own or by any other means on which it might decide. In any case, the authority had to maintain a direct control over the activities carried out in the zone and avoid delegating any of its powers of exploitation whether to physical or juridical persons.

With regard to powers and functions, the basic problems seemed to concern the composition and the decision-making procedures of the executive body. Bangladesh hoped that the authority would comprise four organs. An assembly, in which all countries would be represented on an equal footing, would be the principal policy-making organ; like the General Assembly of the United Nations, it would be the supreme body of the authority; secondly, there should be a smaller body which could be called, for example, the governing council. The membership of that body should reflect an equitable geographic distribution, with due regard to the position of the coastal and land-locked States. It would be the main executive body and should carry out its functions in a democratic manner. His delegation maintained absolutely that there should be no right of veto or any system of weighted votes in the council, since the notion of veto implied the inequality of States and a will to dominate which could not be tolerated. The council should be empowered to carry out or to regulate all the activities of exploration and exploitation and it would ensure an equitable distribution of the economic benefits among all States taking specially into account the interests and needs of the developing countries. Thirdly, to give effect to the resolutions of the assembly and the decisions of the Council, a secretariat vested with administrative powers would have to be set up.

Lastly, some machinery would also have to be provided for the equitable settlement of disputes, subject of course to the possibility of an appeal to the International Court of Justice, for with all the goodwill in the world, such disputes could hardly be avoided.

His delegation was firmly convinced that the exploration and exploitation of the resources of the zone had to be carried out for the benefit of all mankind and in such a way as to promote the orderly development of the world economy and to minimize negative economic effects on the developing countries. The moment had arrived to begin that task and it must be undertaken with humility, sincerity, and devotion. He assured the Conference of the full and sincere co-operation of his Government.

The meeting rose at 1.05 p.m.